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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,423	06/13/2006	Yasser H. Alsafadi	US030509US2	2883

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EXAMINER	
NGUYEN, TRANG T	
ART UNIT	PAPER NUMBER
3686	
MAIL DATE	DELIVERY MODE
04/28/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/596,423	ALSAFADI, YASSER H.	
	Examiner	Art Unit	
	TRANG NGUYEN	3686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 June 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *06/13/2006*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1. This action is in reply to the application filed on 06/13/2006.

2. Claims 1 – 20 are currently pending and have been examined.

Claim Objections

3. Claims 14 is objected to because of acronym usage (i.e. RF…), The acronym should be spelled out.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 1, 4 and 14 are rejected under 35 U.S.C 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regard as the invention.

Claim 1 recites "*the duty to disclose …, the institutional escalator parameters …, the model treatment files …*" in this claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites "*selected from the list comprising …*" in this claim. There is insufficient antecedent basis for this limitation in the claim.

Claims 14 recites " The apparatus according to claim 10 ..." There is insufficient antecedent basis for this limitation in the claim. Examiner cannot determine the metes and bounds of this claim. For the purpose of this examination, the Examiner will assume the claim be written as such: "The apparatus according to claim 13 ..." .

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 1-11 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-11 are directed to a method. However, the recited steps of the method are held to be non-statutory subject matter because the recited steps of the method are (1) not tied to another statutory class (such as a particular apparatus) or (2) not transforming the underlying subject matter (such as an article or materials) to a different state or thing.

8. Claims 12-15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 12 - 15 are directed to an apparatus. However, the "apparatus" is defined by "user interface", "processor", and "network", and thus this limitation can be

reasonably interpreted as computer program module or software per se. The claims are directed to functional descriptive material per se and hence non-statutory.

The claims constitute computer programs representing computer listings per se. Such descriptions or expressions of the programs are not physical "things". They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer, which permit the computer program's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a computer program is a computer element, which defines structural and functional interrelationships between the computer program and the rest of the computer, that permits the computer program's functionality to be realized, and is thus statutory. See Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 12, 13, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Rosenfeld (US 6,804,656 B1).

As per Claims 12:

Rosenfeld, as shown, discloses the following limitations:

An apparatus (30) for displaying a medical record comprising:

- *a storage (32) to store one or more patient treatment guidelines* (See at least column 7, lines 20-35)*;*
- *a user interface (33) to accept a command from a user identifying a patient and context information and to display a selected patient treatment guideline from among the one or more patient treatment guidelines* See at least column 7, lines 20-35)*;*
- *and a processor (31) to search said storage for the selected patient guideline that matches the identified patient and the context information* (See at least column 21, lines 40-42)*.*

Regarding claim 13 Rosenfeld further discloses:

The apparatus according to claim 12, further comprising a network (34) coupling the user interface (33) to the processor (31), wherein said processor (31) comprises a server (See at least column 1, lines 13-21; column 4, lines 34-38; column 5, lines 48-68; column 9, lines 59-63)*.*

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

12. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

13. Claims 1,2, 4-6, 8-11, 16, 17, 19 and 20 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Rosenfeld (US 6,804,656 B1) in view of Macrae (US 5,786,816 B1).

As per Claims 1 and 16:

Rosenfeld, as shown, discloses the following limitations:

A method (40) for interacting with a medical record of a patient comprising:

receiving (43) a patient identification into a user interface along with a care provider identification (See at least Fig 14; column 14, lines 7-20; column 14, lines 49-56; column 18, lines 60-67; column 19, lines 1-19);

selecting (45) a patient treatment guideline based on the entered information (See at least column 22, lines 16-19; column 26, lines 13-19);

Rosenfeld discloses the limitations as shown in the rejections above. Rosenfeld does not explicitly disclose the following limitations. However, Macrae discloses:

displaying (46) the patient treatment guideline (20) on the user interface along with an indicator (21) identifying a current point in the patient treatment guideline (20) (See at least column 6, lines 62-65).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Rosenfeld so as to have included an indicator identifying a current point in the patient treatment guideline (indicated by the color), in accordance with the teaching of Macrae, in order to improve access to clinical information which leads to reduced clinical complications, fewer medical errors, reduced mortality, reduced length of stay, and reduced overall cost per case (Rosenfeld – col. 3, lines 39-42), since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Regarding claim 2:

Rosenfeld/Macrae discloses the limitations as shown in the rejections above. Rosenfeld/Macrae does not explicitly disclose the following limitations. However, Macrae discloses:

The method according to claim 1, wherein the current point includes a last completed treatment in the patient treatment guideline (See at least column 6, lines 62-65).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Rosenfeld so as to have included an indicator identifying a current point in the patient treatment guideline (indicated by the color), in accordance with the teaching of Macrae, in order to improve access to clinical information which leads to reduced clinical complications, fewer medical errors, reduced mortality, reduced length of stay, and reduced overall cost per case (Rosenfeld – col. 3, lines 39-42), since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Regarding claim 4 Rosenfeld further discloses:

The method according to claim 1, further comprising:

storing (42) one or more patient treatment guidelines (20) in a database (See at least column 7, lines 20-35; column 19, lines 8-19).

Regarding claim 5 Rosenfeld further discloses:

The method according to claim 1, further comprising:

assigning (41) a treatment guideline (20) to a patient (See at least column 2 lines 15-36).

Regarding claim 6 and 17 Rosenfeld further discloses:

The method according to claim 1, further comprising:

*entering (44) a code identifying a treatment into the user interface and selecting (45) the patient guideline (20) based at least in part on the code (*See at least column 30, lines 26-67).

As per Claims 8 and 19:

Rosenfeld/Macrae discloses the limitations as shown in the rejections above. Rosenfeld/Macrae does not explicitly disclose the following limitations. However, Macrae discloses:

The method according to claim 1, wherein said indicator (21) includes a color highlighting a next step in the patient treatment guideline (20) (See at least column 6, lines 62-65; column 7, lines 3-8).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Rosenfeld so as to have included an indicator highlighting a next step in the patient treatment guideline, in accordance with the teaching of Macrae, in order to improve access to clinical information which leads to reduced clinical complications, fewer medical errors, reduced mortality, reduced length of stay, and reduced overall cost per case (Rosenfeld – col. 3, lines 39-42), since so doing could be performed readily and

easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

As per Claims 9 and 20:

Rosenfeld/Macrae discloses the limitations as shown in the rejections above. Rosenfeld/Macrae does not explicitly disclose the following limitations. However, Macrae discloses:

The method according to claim 1, wherein said indicator includes a first color associated with all steps in the patient treatment guideline that have been completed and a second color associated with all steps in the patient treatment guideline that have not been completed and said first and second colors are different (See at least column 6, lines 62-65; column 7, lines 3-8).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Rosenfeld so as to have included different color schemes to indicate the complete and incomplete steps in the patient treatment guideline, in accordance with the teaching of Macrae, in order to improve access to clinical information which leads to reduced clinical complications, fewer medical errors, reduced mortality, reduced length of stay, and reduced overall cost per case (Rosenfeld – col. 3, lines 39-42), since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Regarding claim 10 Rosenfeld further discloses:

The method according to claim 1, further comprising:

storing (41, 42) one or more codes that identify one or more steps in a particular patient treatment guideline (20) that are to be performed for the given patient in the patient's medical records (See column 30, lines 26-62)*; and*

appending (47) an indicator to each of said one or more codes upon completion of a step in the particular patient treatment guideline associated with said each of said one or more codes (See at least column 7, lines 1-18; column 19, lines 8-19; column 19, lines 66-67; column 20, lines 1-5)*.*

Regarding claim 11 Rosenfeld further discloses:

The method according to claim 1, further comprising:

storing (42) a code that identifies one step in a particular patient treatment guideline upon completion of said one step in the patient's medical records (See column 7, lines 1-18)*;*

modifying (47) a standard treatment guideline based on the stored code in the patient's medical records before displaying the patient treatment guideline (See column 41, lines 33-35)*.*

14. Claims 3, 7 and 18 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Rosenfeld (US 6,804,656 B1) in view of Macrae (US 5,786,816 B1) and further in view of Shannon (US 7,184,963 B1).

Regarding claim 3:

Rosenfeld/Macrae discloses the limitations as shown in the rejections above. Rosenfeld/Macrae does not explicitly disclose the following limitations. However, Shannon discloses:

The method according to claim 1, wherein the current point includes a next treatment to be performed in the patient treatment guideline (20) (See at least column 8, lines 54-67).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Rosenfeld so as to have included an indicator identifying the next treatment in the patient treatment guideline, in accordance with the teaching of Shannon, in order to improve access to clinical information which leads to reduced clinical complications, fewer medical errors, reduced mortality, reduced length of stay, and reduced overall cost per case (Rosenfeld – col. 3, lines 39-42), since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

As per Claims 7 and 18:

Rosenfeld/Macrae discloses the limitations as shown in the rejections above. Rosenfeld/Macrae does not explicitly disclose the following limitations. However, Shannon discloses:

The method according to claim 1, wherein said indicator (21) includes an arrow (22) pointing to the current point in the patient treatment guideline (20) (See at least column 8, lines 29-37).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Rosenfeld so as to have included an arrow pointing to the current point in the patient treatment guideline, in accordance with the teaching of Shannon, in order to improve access to clinical information which leads to reduced clinical complications, fewer medical errors, reduced mortality, reduced length of stay, and reduced overall cost per case (Rosenfeld – col. 3, lines 39-42), since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

15. Claims 14 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Rosenfeld (US 6,804,656 B1) in view of Chaco (US 5,822,544).

Regarding claim 14:

Rosenfeld discloses the limitations as shown in the rejections (claims 12 and 13) above. Rosenfeld does not explicitly disclose the following limitations. However, Chaco discloses:

The apparatus according to claim 10, wherein the user interface (33) includes a RF Id reader (36) that automatically reads a patient identification and/or a clinician's identification and transmits this information to the processor (31) (See

at least column 2, lines 38-50; column 12, lines 42-47; column 18, lines 11-16; column 18, lines 43-51).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Rosenfeld so as to have included an RF Id reader to read and transmit information, in accordance with the teaching of Chaco, in order to facilitate audio, visual and data communications between remote stations and provide maximum patient care, to have improved the efficiency of the system, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

16. Claims 15 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Rosenfeld (US 6,804,656 B1) in view of Shannon (US 7,184,963 B1).

Regarding claim 15:

Rosenfeld discloses the limitations as shown in the rejections (claims 12 and 13) above. Rosenfeld does not explicitly disclose the following limitations. However, Shannon discloses:

The apparatus according to claim 14, wherein the user interface (33) includes a pointing device and a display (See at least column 2, lines 38-51; column 4, lines 32-39).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Rosenfeld so as to have

included a pointing device and a display with the user interface, in accordance with the teaching of Shannon, in order to facilitate audio, visual and data communications between remote stations and provide maximum patient care, to have improved the efficiency of the system, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **TRANG NGUYEN** whose telephone number is **(571) 270-5483.** The Examiner can normally be reached on Monday-Thursday, 7:00am-5:30pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **GERALD O'CONNOR** can be reached at **571.272.6787**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For

more information about the PAIR system, see http://portal.uspto.gov/external/portal/pair . Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

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/T. N./
April 24, 2009
Examiner, Art Unit 3686

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